

SENATE BILL 2923

By Reeves

AN ACT to amend Chapter 429 of the Private Acts of 1931; and any other acts amendatory thereto, relative to creating and funding certain trusts and accounts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 429 of the Private Acts of 1931; and any other acts amendatory thereto, is amended by adding the following new Article III, Section 4C:

Section 4C - Community Investment Trust; restricted assets; annual distributions; unrestricted investment income; investment power.

(1) **Community Investment Trust.** Full power and authority is hereby given to the city to create a perpetual and irrevocable trust, which shall be funded from proceeds from the sale of the city's electric distribution system, including, as more specifically provided in subsection (2), portions of the initial payment and installment payments, and to appoint a board of trustees to invest and expend the assets of said trust in accordance with this Section 4C. The general purpose of such trust fund (hereinafter, the "Community Investment Trust") shall be:

(a) To support projects and programs of the city or other nonprofit institutions that benefit the city's inhabitants and improve or enhance the quality of life of the city's inhabitants or aid civic or other public improvements;

(b) To promote and advance the social welfare of the inhabitants of the city;

(c) To promote and support educational and recreational programs, facilities, and opportunities;

(d) To promote and support economic development and employment opportunities within the city;

(e) To fund public works; and

(f) To advance the general welfare of the city and its residents.

Subject to the limitations set forth in this Section 4C and Tennessee Code Annotated, § 6-54-111, the city council shall have the authority to adopt ordinances and resolutions and approve such declarations of trust, reasonable and necessary to create and maintain the trust in accordance with its stated purpose.

For budgeting, audit, and financial reporting purposes, the Community Investment Trust shall be deemed a component unit of the city.

(2) Schedule for funding Community Investment Trust from sale proceeds. The city council shall make funding payments to the Community Investment Trust ("Funding Payments") from the proceeds from the sale of the city's electric distribution system in accordance with the following Funding Payment schedule:

Funding Payment Schedule

Payment from MTEMC	Due Date	Amount of Payment
Initial Payment	July 1, 2020	\$24,864,742.00
Installment Payment # 1	July 1, 2021	\$7,040,133.78
Installment Payment # 2	July 1, 2022	\$9,290,133.78
Installment Payment # 3	July 1, 2023	\$10,040,133.78
Installment Payment # 4	July 1, 2024	\$10,290,133.78
Installment Payment # 5	July 1, 2025	\$10,540,133.78
Installment Payment # 6	July 1, 2026	\$13,315,133.78
Installment Payment # 7	July 1, 2027	\$16,040,133.78
Installment Payment # 8	July 1, 2028	\$16,540,133.78
Installment Payment # 9	July 1, 2029	\$17,040,133.78
Installment Payment # 10	July 1, 2030	\$17,290,133.78

Installment Payment # 11	July 1, 2031	\$17,290,133.78
Installment Payment # 12	-July 1, 2032	\$17,290,133.78
Installment Payment # 13	July 1, 2033	\$17,290,133.78
Installment Payment # 14	July 1, 2034	\$17,290,133.78
Installment Payment # 15	July 1, 2035	\$17,290,133.78

Funding Payments made from proceeds received by the city before the effective date of this Section 4C shall be made to the Trust within ninety (90) days of such effective date or of the city council's approval of the declaration of trust establishing the Community Investment Trust (hereinafter referred to as "Community Investment Trust Agreement"), whichever is later. All other funding payments shall be made to the Trust within thirty (30) days of the corresponding installment payment.

(3) No tax revenue, special assessments, fee income, fines, or monetary penalties to be allocated to trust. The city is prohibited from appropriating, transferring, or otherwise allocating any tax revenue, special assessment, fee income, fine, or monetary penalty collected to the Community Investment Trust. In addition, the city is prohibited from appropriating, transferring, or otherwise allocating the proceeds from the sale of city property, where such property was purchased, in whole or in part, with tax revenue or revenue derived from special assessments, fees, fines, or monetary penalties.

(4) Allocation of other funds to the trust. Except as prohibited by subsection (3) or as may otherwise be prohibited by applicable state law, federal law, or contract, the city council may, by ordinance, appropriate and contribute additional funds to the Community Investment Trust.

(5) Board of trustees. The Community Investment Trust shall be managed and governed by a board, whose members shall be trustees of the Trust. The board of trustees shall consist of seven (7) members appointed by

the city council in accordance with this subsection (5) and the Community Investment Trust Agreement.

No person shall be eligible for appointment to the board of trustees unless such person resides within the city; any member who subsequently comes to reside outside the city shall vacate the office.

No more than one (1) current member of the city council may serve on the board of trustees at any time. In addition, no person appointed to serve on any other board or commission of the city, nor any person hired as an officer or employee of the city, shall be eligible to serve on the board of trustees.

Members of the board may be removed by the board in accordance with the terms of the Community Investment Trust Agreement, and all vacancies occurring as a result of death, resignation, or removal in the membership of said board shall be filled in accordance with the Community Investment Trust Agreement.

The members of the board of trustees shall serve in such capacity without compensation.

Subject to the limitations set forth in this Section 4C and the Community Investment Trust Agreement, the board of trustees shall have the authority to adopt policies and take all other lawful actions reasonable and necessary to exercise the powers granted herein. In addition, upon the request of the board of trustees, the city may loan city employees to the board of trustees, without charge to the trust, to carry out administrative, clerical, and other functions related to the fund as directed by the board. In addition, the board of trustees is specifically empowered to employ legal, accounting, auditing, and financial professionals reasonably necessary to carry out the functions and purposes of the plan and to negotiate the fees for such professional services, which,

notwithstanding any provision to the contrary in this Section 4C, may be paid from the trust's assets.

No part of the net earnings of the Community Investment Trust shall inure to the benefit of or be distributable to the members of the board of trustees, its officers, or any city official or employee.

(6) **Restricted assets.** The Funding Payments, along with any additional funds transferred to the trust pursuant to subsection (4), shall constitute the principal and restricted assets of the Community Investment Trust. The board of trustees shall not access, distribute, or otherwise expend such principal except as otherwise provided in this Section 4C.

(7) **Investment power.** Consistent with advancing the purpose of the Community Investment Trust in perpetuity, the board of trustees shall invest the trust's assets at the highest and best practical return of income and in accordance with requirements of the Tennessee Uniform Prudent Investor Act of 2002 and any other applicable law imposing duties and responsibilities upon fiduciaries. Notwithstanding the foregoing, the board of trustees shall invest the trust investments in accordance with an investment policy, approved by the board of trustees, that is in all respects consistent with the requirements and limitations imposed on the board of trustees of the Tennessee Consolidated Retirement System in Tennessee Code Annotated, § 8-37-104(a) and (c). Subject to the limitations in this subsection, the board of trustees, or its nominee, shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the securities or investments in which the trust's assets have been invested, including the purchasing and selling of stock options, as well as of the proceeds of such investments and any money belonging to such trusts.

(8) **Financial reports; budget.** The board of trustees shall, on an annual basis, provide the city council and city finance director with complete

audited financial statements for the Community Investment Trust, accurately reflecting the condition of the fund and the investments then made. The board must also provide quarterly investment statements to the city council and the city finance director and provide any other financial information as may be reasonably requested by the city council or city finance director. In addition, the board must present to the city council for informational purposes only an annual budget setting forth the amount of income from the trust anticipated for the next fiscal year and the proposed distributions and operational expenditures. Such budget shall be presented at the same time that all other city departments and boards present their budgets to the city council. The city council shall have no authority to approve or disapprove the budget of the board of trustees; provided, however, the city council may bring suit in the chancery court for Rutherford County should the city council believe, as demonstrated by an affirmative vote of a majority of the whole membership of city council, that the annual budget adopted by the board of trustees or any other action of the board of trustees fails to comply with applicable state or federal law, this Section 4C, or the Community Investment Trust Agreement.

(9) **Annual distributions.** Notwithstanding anything in this Section 4C to the contrary, no later than April 30, 2023, and each April 30th thereafter, the board of trustees shall distribute from the Community Investment Trust an amount equal to five percent (5%) of the trust fund's total fair market value, as of the preceding December 31st, less any administrative and investment expenses authorized under subsection (5) and incurred in the prior calendar year. Such distributions shall be made in the following proportions:

- Eighty-five percent (85%) to the city's general fund; and
- Fifteen percent (15%) to one (1) or more nonprofit, charitable organizations that serve city residents, as directed by and in such

amounts identified by a community board established by ordinance of the city council.

The board of trustees shall have the authority to refuse to make a distribution to any entity or person where there is substantial and material evidence indicating that the distribution proposed by the community board would violate:

- (i) Tennessee Code Annotated, § 6-54-111, or other applicable state or federal law;
- (ii) This Section 4C; or:
- (iii) The Community Investment Trust Agreement.

All amounts distributed to the city's general fund must be appropriated by the city council for the city's next fiscal year to further the purposes of the Community Investment Trust. Such distributions and appropriations shall continue annually until such time the total fair market value of the Community Investment Trust as of December 31st falls below ten million dollars (\$10,000,000.00), in which case the trust shall be terminated as provided in subsection (10).

(10) **Termination of trust; final distribution.** The trust shall be maintained in perpetuity except as otherwise provided in this subsection.

(a) In the event the total fair market value of the Community Investment Trust as of December 31st in any year following the trust's creation falls below ten million dollars (\$10,000,000.00), the board of trustees shall distribute the trust fund's remaining assets to the city. Such distribution shall be made no later than the following June 30th.

Thereafter, the board of trustees and city council are further empowered to take all reasonable and necessary actions to terminate the trust within one (1) year of the final distribution.

(b) In the event a majority of the qualified voters of the city voting in an election approve the termination of the Community Investment Trust pursuant to an initiative under Section 26 of this Act or a referendum on a duly enacted ordinance in accordance with Section 27 of this Act, the board of trustees and city council are further empowered to take all reasonable and necessary actions necessary to:

- (i) Convert the fund's assets to cash deposits;
- (ii) Transfer title to such deposits to the city; and
- (iii) Terminate the trust within one (1) year of the election.

SECTION 2. Chapter 429 of the Private Acts of 1931; and any other acts amendatory thereto, is amended by adding the following new Article III, Section 4D:

Section 4D - Park and recreation restricted account.

(1) **Park and Recreation Restricted Account.** The city council shall restrict certain funds in an account within the city's general fund as specified in this Section 4D, subject to the exception set forth in subsection (4). Such account shall be funded from proceeds from the sale of the city's electric distribution system, including, as more specifically provided in subsection (2), portions of the Initial Payment and first three (3) Installment Payments, and to invest and expend the assets of said trust fund in accordance with this Section 4D. The general purpose of the funds in this restricted account (hereinafter, the "Park and Recreation Restricted Account") shall be to pay for the acquisition of land for, and the design and construction of, parks and recreational facilities within the city. Except as otherwise provided in this Section 4D, the Park and Recreation Restricted Account shall be administered in accordance with Article XII of this Charter and as otherwise provided by law or city policy governing funds.

(2) **Schedule for funding Park and Recreation Restricted Account.**

The city council shall make funding payments to the Park and Recreation Restricted Account ("Funding Payments") from the proceeds from the sale of the city's electric distribution system in accordance with the following schedule:

Funding Payment Schedule for Park and Recreation Restricted Account

Payment from MTEMC	Due Date	Amount of Payment
Initial Payment	July 1, 2020	\$2,000,000.00
Installment Payment # 1	July 1, 2021	\$1,750,000.00
Installment Payment # 2	July 1, 2022	\$1,000,000.00
Installment Payment # 3	July 1, 2023	\$250,000.00

(3) **Additional funding.** The city council may appropriate, transfer, or otherwise allocate any tax revenue, special assessment, fee income, fine, monetary penalty, or other revenue, including proceeds from the sale of city property, to the Park and Recreation Restricted Account.

(4) **Restricted use.** The Funding Payments, along with any additional funds appropriated for the Park and Recreation Restricted Account pursuant to subsection (3), shall be used for the sole purpose of financing the acquisition of land for and the design and construction of parks and recreational facilities within the city. Notwithstanding the foregoing, the city council may appropriate money from the Park and Recreation Restricted Account for any lawful purpose in the event of a financial emergency declared pursuant to a resolution approved by a two-thirds (2/3) vote of the whole membership of the city council. For purposes of this subsection (4), a "financial emergency" means circumstances in which the ad valorem real property tax revenue due and paid during the preceding calendar year was at least five percent (5%) below budget projections for that year.

SECTION 3. Chapter 429 of the Private Acts of 1931; and any other acts amendatory thereto, is amended by adding the following new Article III, Section 4E:

Section 4E - Transportation Restricted Account.

(1) **Transportation Restricted Account.** The city council shall restrict certain funds in an account within the city's general fund as specified in this Section 4E, subject to the exception set forth in subsection (4). Such account shall be funded from proceeds from the sale of the city's electric distribution system, including, as more specifically provided in subsection (2), portions of the Initial Payment and first six (6) Installment Payments, and to invest and expend the assets of said trust fund in accordance with this Section 4E. The general purpose of such fund (hereinafter, the "Transportation Restricted Account") shall be to fund transportation projects that directly benefit the city and its residents, including the construction of roads and bridges within the city's urban growth boundary. Except as otherwise provided in this Section 4E, the Transportation Restricted Account shall be administered in accordance with Article XII of the Charter and as otherwise provided by law or city policy governing funds.

(2) **Schedule for funding Transportation Restricted Account.** The city council shall make funding payments to the Transportation Restricted Account ("Funding Payments") from the proceeds from the sale of the city's electric distribution system in accordance with the following schedule:

Funding Payment Schedule for Transportation Restricted Account

Payment from MTEMC	Due Date	Amount of Payment
Initial Payment	July 1, 2020	\$10,000,000.00
Installment Payment # 1	July 1, 2021	\$5,000,000.00
Installment Payment # 2	July 1, 2022	\$5,000,000.00
Installment Payment # 3	July 1, 2023	\$5,000,000.00
Installment Payment # 4	July 1, 2024	\$5,000,000.00
Installment Payment # 5	July 1, 2025	\$5,000,000.00
Installment Payment # 6	July 1, 2026	\$2,475,000.00

(3) **Additional funding.** The city council may appropriate, transfer, or otherwise allocate any tax revenue, special assessment, fee income, fine, monetary penalty, or other revenue, including proceeds from the sale of city property, to the Transportation Restricted Account.

(4) **Restricted use.** The Funding Payments, along with any additional funds appropriated for the Transportation Restricted Account pursuant to subsection (3), shall be used for the sole purpose of financing the acquisition of land for and the design and construction of transportation projects to directly benefit the city and its residents, including the construction of roads and bridges within the city's urban growth boundary. Notwithstanding the foregoing, the city council may appropriate money from the Transportation Restricted Account for any lawful purpose in the event of a financial emergency declared pursuant to a resolution approved by a two-thirds (2/3) vote of the whole membership of the city council. For purposes of this subsection, a "financial emergency" means circumstances in which the ad valorem real property tax revenue due and paid during the preceding calendar year was at least five percent (5%) below budget projections for that year.

SECTION 4. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Murfreesboro. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state.

SECTION 5. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 4.